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SUBJECT: POLICE REFORM TASK FORCE PREVIEWS ITS  
RECOMMENDATIONS

REF: NAIROBI 2252, NAIROBI 1886, NAIROBI 1567, NAIROBI  
1183, NAIROBI 1172, NAIROBI 1167

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Summary  
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¶1. On November 11, three members of the Police Reform Task Force (PRTF) briefed members of the diplomatic corps on the Task Force's unanimous recommendations to the Government of Kenya. Carrying an estimated price tag of 81.4 billion Kenyan shillings (approximately \$1.1 billion) over the next three years, the recommended reforms would create effective police oversight; improve performance, community relations, and conditions of service; reduce corruption; and clarify roles and responsibilities among different police organizations. The 300-page report is scheduled for a Cabinet review on November 19, after which the report should be made public. According to the Task Force's Vice Chair, the first real test of the Government's commitment to the police reform process will be whether President Kibaki uses his executive power to immediately establish Police Reform Implementation Commission (PRIC), which would be responsible for monitoring implementation of the recommended reforms. END SUMMARY.

¶2. On November 11, the British High Commission invited like-minded diplomatic missions to a briefing by three members of the PRTF on the group's recommendations to the Government of Kenya. PRTF's South African Vice Chair, Peter Gastrow, led the briefing. (Note: The British Government provided significant funding for this effort. End note.)

¶3. Gastrow began the brief by noting that the report, which is approximately 300 pages long and contains over 200 recommendations, was agreed to by all 18 members of the Task Force, and that this level of consensus was by no means a given.

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Major Recommendations  
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¶4. Perhaps the most controversial issue on the police reform agenda has been the recommendation (originating from the Waki Commission) that the Kenya Police Force and the Administration Police be combined. The PRTF agreed that something needed to be done to mitigate the unhealthy, destabilizing competition and functional overlap that has arisen between the two organizations but concluded that merging the two bodies ahead of the 2012 elections would be too destabilizing. (See, for example, ref C.) They recommended instead the creation of a

National Policing Council (NPC) that would be composed of the Kenya Police Force, Administration Police, Criminal Investigation Division, General Services Unit, and Provincial Commissioners to coordinate police activities and set policy. The NPC would also set common standards, oversee common budget and procurement processes, and ensure training facilities are shared.

¶5. Similar to ideas surrounding constitutional reform, the PRTF recommended devolution of power to the provincial level. The status quo, in which all decisions regarding police policy, operations, and budgeting are made in Nairobi, discourages local responsibility and creates an environment in which illegal orders are followed without question, the PRTF concluded.

¶6. The PRTF also recommended establishing two feedback mechanisms for the public, both to air grievances and set local priorities for police actions (e.g., combating drugs in Coast Province, dealing effectively with the Mungiki criminal gang in Central Province, responding to livestock rustling in pastoral areas, etc.). One of these bodies would be the Provincial Police Authority, which would be composed of nine civilians and would oversee the provincially-managed police budget and help set police priorities for their province. The other body would be the Independent Police Oversight Authority, which would also be composed of civilians and have the power to subpoena and investigate allegations of police misconduct.

¶7. To control the rampant corruption in the police force,

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the PRTF recommended the creation of a code of conduct that would include eliminating police conflicts of interest (e.g., officers who have financial links to the transport industry). They also recommended that the police recruitment process be made more transparent and competitive to eliminate the current patronage/bribery network that police recruit hopefuls must navigate to secure jobs. (Note: Gastrow noted that Minister of Internal Security George Saitoti had already agreed to freeze recruitments for the rest of the year so that the mechanisms can be put in place to make the process more transparent. End note.)

¶8. Poor conditions of service (for example, poor living conditions and medical treatment, low salaries and non-payment of allowances) must be fixed to improve police morale, which is abysmally low, the PRTF said. (Note: Gastrow noted that Saitoti intends to commit the 500 million Kenyan shillings (approximately \$7 million) saved by the recruitment freeze to pay arrears in allowances owed to police officers. End note.)

¶9. Police leadership and specialized units, such as the Criminal Investigations Division, need to have the necessary skills and commitment to perform their jobs. To this end, the PRTF recommended that all senior police leaders be subjected to a suitability review. Unqualified officers would be transferred or let go (with a severance package) while those remaining would have opportunities to participate in foreign exchange programs.

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Implementation  
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¶10. Cabinet is scheduled to review the PRTF's report at its weekly meeting on November 19. Gastrow said that the next step will be for the Government to make the report public and decide how much of the report they will accept. After that it is up to parliament to implement the necessary legislation, a process that will take

approximately four months, he said.

¶11. Implementation of recommended reforms has always been a challenge in Kenya, Gastrow admitted, and police reform would be no different. To guarantee follow-through, the PRTF is recommending the immediate formation of a Police Reform Implementation Commission (PRIC). The PRIC would include international and domestic police reform experts, Permanent Secretaries from relevant Government ministries, and civil society actors such as the Kenya Human Rights Commission and the Law Reform Commission. The PRIC would have a two-year mandate to monitor the implementation of the report's recommendations. Gastrow said that in his discussions with Francis Kimemia, the Permanent Secretary of Internal Security, Kimemia assured him that the PRIC could be established within one week of the November 19 Cabinet meeting. PRTF member Mohamud Saleh said that President Kibaki can establish the PRIC immediately by using the authority of Section 23 of Kenya's constitution. (Note: This section gives the President 'executive authority.' End note.)

¶12. Other recommended reforms, such as the creation of the Independent Police Oversight Authority, are better left to the constitutional reform and legislative process and not executive orders. This will necessarily take longer, Gastrow said.

¶13. The PRTF is estimating that the reform package will cost approximately 81.4 billion Kenyan Shillings (approximately \$1.1 billion) between 2010 and 2013. Of that, Saitoti estimated that the Government would be able to fund half of that amount. The PRTF representatives made a clear pitch to the assembled diplomats that donor assistance would be required to make up the difference.

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Comment  
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¶14. Police reform is a critical component of Kenya's reform agenda and could become one of the determining factors for the country's continued stability. The first indicators of the Government's good faith intentions will be how the cabinet handles its review, whether the PRTF's

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full report is released to the public, and if the Government does move forward within the next few weeks to establish an oversight mechanism for reform implementation.

¶15. While we understand the PRTF's position on the need for both internal and external oversight mechanisms to be established via constitutional reform, we are concerned that, without these mechanisms, other efforts to combat corruption and human rights abuses by the security forces will not be fruitful. We also note that the external civilian oversight mechanism as described by the PRTF will apparently rely on the Attorney General's office to initiate prosecutions against police officers who commit criminal acts, which raises concerns that, as with the Kenya Anti-Corruption Commission, such cases will not be acted on. This could lead to continued impunity and increasing public cynicism.

¶16. On October 22, the Ambassador met with Minister for Internal Security Saitoti and his senior security team (see ref A) to urge them to move forward on police reform, including especially establishing independent and credible police oversight mechanisms. We will continue to engage with our Kenyan and diplomatic counterparts on the contents of the KPRC report and provide recommendations septel on the possible way forward and requests for specific support for police reform.

